

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RUBEN ESCANO,

Plaintiffs,

v.

CV No. 21-223 MV/CG

CONCORD AUTO PROTECT, INC., et al.,

Defendants.

ORDER OF ABEYANCE

THIS MATTER is before the Court upon Plaintiff Ruben Escano's *Motion for Leave to Take Limited Discovery Prior to the Rule 26(f) Conference to Obtain Perishable Evidence from Defendant ForeverCar, LLC and Non-Parties* (the "Motion"), (Doc. 76), filed December 27, 2021. Mr. Escano's Motion is aimed at defending against the claim in Defendant ForeverCar, LLC's answer that Mr. Escano voluntarily entered his information on ForeverCar's website. *Id.* at 2-4. In particular, the Motion seeks to serve subpoenas on "non-parties who are in possession of perishable evidence that would identify the person . . . who entered [Mr. Escano's] personal information on ForeverCar's website." *Id.* at 1.

The undersigned entered *Proposed Findings and Recommended Disposition* (the "PFRD"), (Doc. 80), on January 19, 2022, primarily recommending that ForeverCar be dismissed from this matter with prejudice and that the Liberty Mutual Defendants be dismissed from this matter without prejudice. These recommendations may render the Motion largely moot. Further, the period within which the parties may object to the PFRD has not yet closed, and, as a result, the presiding judge has not yet ruled on the PFRD. Given that, the Court finds this matter shall be in abeyance pending the

presiding judge's ruling on the PFRD.

IT IS THEREFORE ORDERED that Mr. Escano's *Motion for Leave to Take Limited Discovery Prior to the Rule 26(f) Conference to Obtain Perishable Evidence from Defendant ForeverCar, LLC and Non-Parties*, (Doc. 66), is **HELD IN ABEYANCE** pending a ruling on the undersigned's *Proposed Findings and Recommended Disposition*, (Doc. 80).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE